

S E A T T L E P O L I C E D E P A R T M E N T

*Office of
Professional
Accountability*



**OPA Complaint
Statistics
2003**

Summer 2005

S A M P A I L C A
D I R E C T O R

This report outlines information about citizen complaints received during calendar year 2003. It has been prepared to summarize the data in a manner and format that will replicate previous reports. Data included in this document has been previously reported in OPA Monthly Reports to the Mayor, which can be found at: <http://www.seattle.gov/mayor/issues/OPA.htm>.

The monthly reports reflect current data as the calendar year unfolds. A consolidated report prepared after the year's cases have been closed provides a more accurate and representative review and allows for identification and analysis of trends.

Included in this report are statistics on classification of complaints, a breakdown of the allegations made, and the disposition of complaints, including a discussion of discipline imposed. Also included is a review of changes in classifications by both the Director and the Chief of Police.

This report does not address policy recommendations made by OPA. A special report that addressed those policy recommendations made by OPA since the last annual report (September 2003) was presented to City Council on 17 May 2005 and can be reviewed at: <http://www.seattle.gov/police/OPA/Docs/2004PolicyRecommendations.pdf>.

This report was prepared with assistance by OPA Associate Director John Fowler.

2003 OPA Complaint Statistics

Complaints Against SPD Employees 1997-2003

Complaint Classification	1997	1998	1999	2000	2001	2002	2003
OPA-IS Investigations	149	136	145	183	191	158	149
Line Investigations	56	41	41	32	36	38	36
Supervisory Referrals	106	100	26	22	33	97	79
Total Complaints	311	277	212	237	260	293	264

After two years of increased complaint activity, 2003 data reflects an overall decrease in total complaints of about 10%. A brief analysis of these numbers is set forth below.

Supervisory Referrals

A Supervisory Referral is a citizen or internal complaint of minor misconduct, e.g., service quality, tactics, demeanor, or adherence to policy that, if proven, would be appropriate for supervisory resolution. These complaints are forwarded to the affected employee's chain of command for review and resolution with the complainant and the employee. Supervisory Referrals do not result in discipline, nor are they subject to the investigation-review-findings process of Line or OPA Internal Investigations.

Last year, OPA reported on its deliberate effort to push accountability further down the chain of command to first-line supervisors, and discussed the multiple benefits to supervisory review of minor complaints. As reported, that strategy resulted in a dramatic increase of 194% (from 33 in 2001 to 97 in 2002) in Supervisory Referrals during 2002.

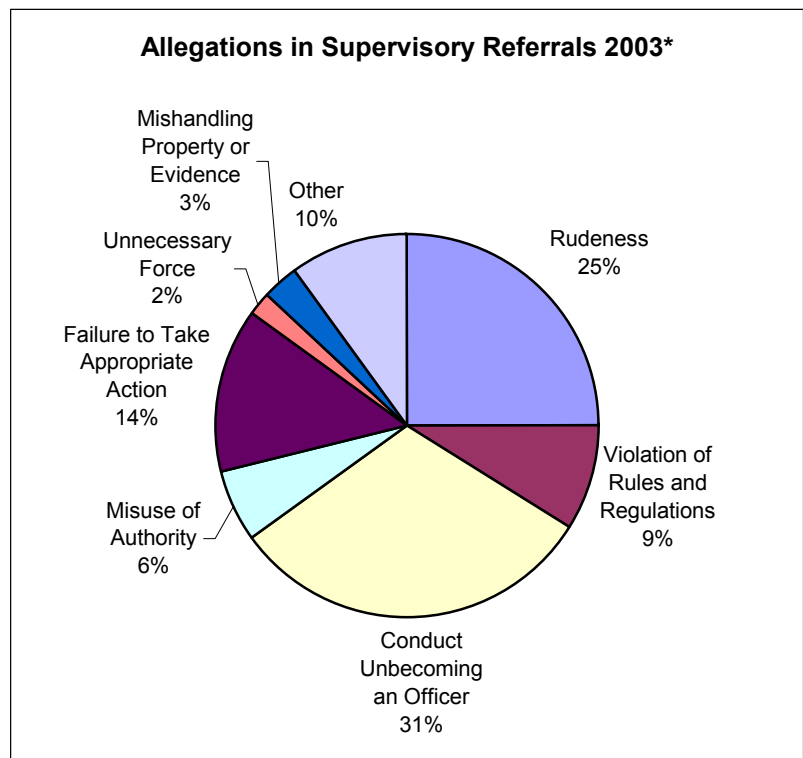
Number and Types of Allegations in Cases Assigned for Resolution by Supervisory Referral

Type of Allegation	No. of Allegations
Rudeness	25
Violation of Rules and Regulations	9
Conduct Unbecoming an Officer	31
Misuse of Authority	6
Failure to Take Appropriate Action	14
Unnecessary Force	2
Mishandling Property or Evidence	3
Other	10
TOTAL	100

At the same time, OPA worked closely with the chain-of-command, usually in Patrol Operations, to ensure prompt, effective communication with complainants and officers alike.

The 19% decrease in Supervisory Referrals from 2002 to 2003 may be solid evidence that this effort achieved its intended results: reducing the number of complaints about courtesy, professionalism, and service quality.

Input and feedback from a supervisor to an officer is more personal and thus has a greater impact. Plus, spending time resolving complaints, provides supervisors with the motivation they need to model and reinforce standards and expectations for conduct and service.



The 2003 data encourages OPA to continue its emphasis on resolution of minor complaints through Supervisory Referrals.

Investigated Complaints

Complaints Against SPD Employees 1997-2003

Complaint Classification	1997	1998	1999	2000	2001	2002	2003
OPA-IS Investigations	149	136	145	183	191	158	149
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Supervisory Referrals	106	100	26	22	33	97	79
Total Complaints	311	277	212	237	260	293	264

An intentional and desirable by-product of resolving more complaints through Supervisory Referral is that OPA-IS is able to devote more of its resources to the most serious complaints.

As shown above, 185 complaints were assigned for full investigation – either a Line Investigation or OPA-IS investigation, a 6% decrease when compared to 2002.

Line Investigations

Line Investigations are conducted by the named employee's precinct or section commander (or civilian equivalent) when the alleged misconduct, if true, would be a violation of the Department's policies, but the investigation is straightforward and may be handled objectively by the line. Thirty-six Line Investigations were conducted arising out of complaints arising out of complaints received in 2003, just two less than in 2002.

OPA did detect a problem with the quality and timeliness of line investigations in 2003. The OPA Auditor also highlighted this weakness in communications with the OPA Director and in public reports.

With the backing of Chief Kerlikowske, OPA responded with a 3-point action plan. First, a bi-weekly report from the OPA-IS commander to the Chief on the status of all line investigations was instituted. Second, the line investigation packet sent out by OPA-IS was amended to highlight the deadlines and to clarify that OPA-IS procedures govern the line during investigations. Third, Chief Kerlikowske sent a letter to all captains outlining his expectations that line investigations be thorough, professional, objective, accurate, and timely.

OPA will keep close watch on Line Investigations from 2004 and 2005 cases.

OPA-IS Investigations

Number and Types of Allegations in SPD Internal Investigation Cases, 1997 - 2003

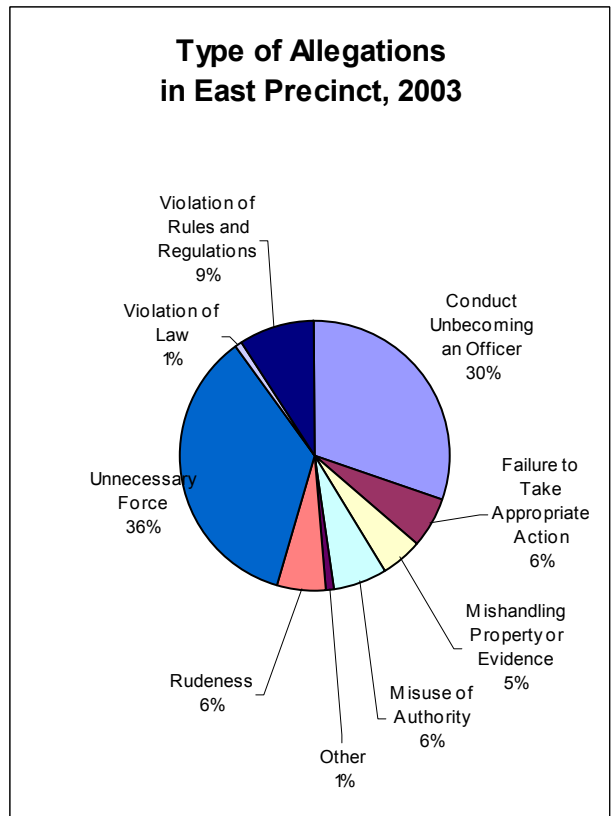
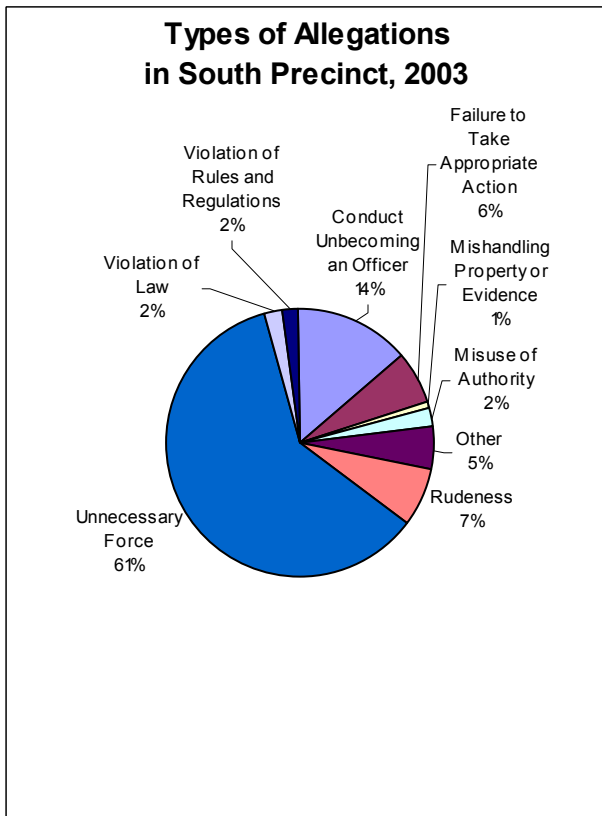
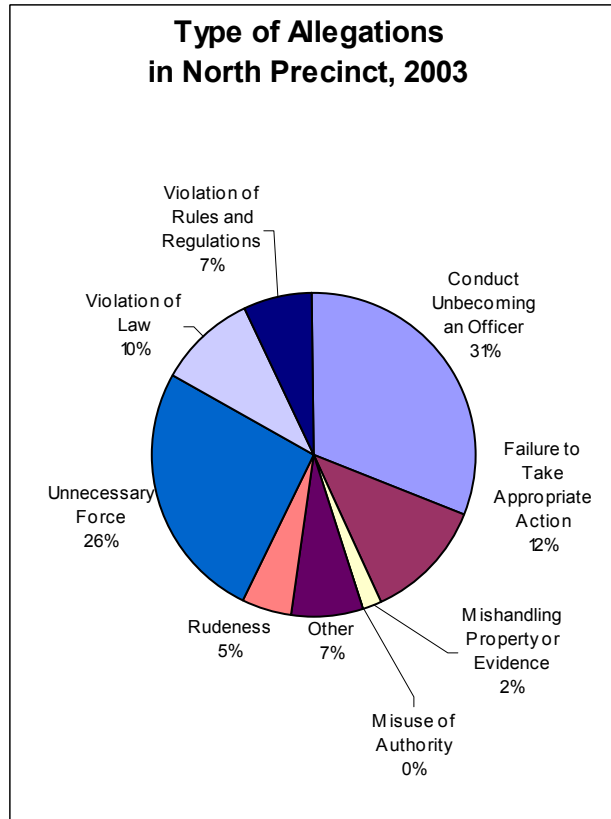
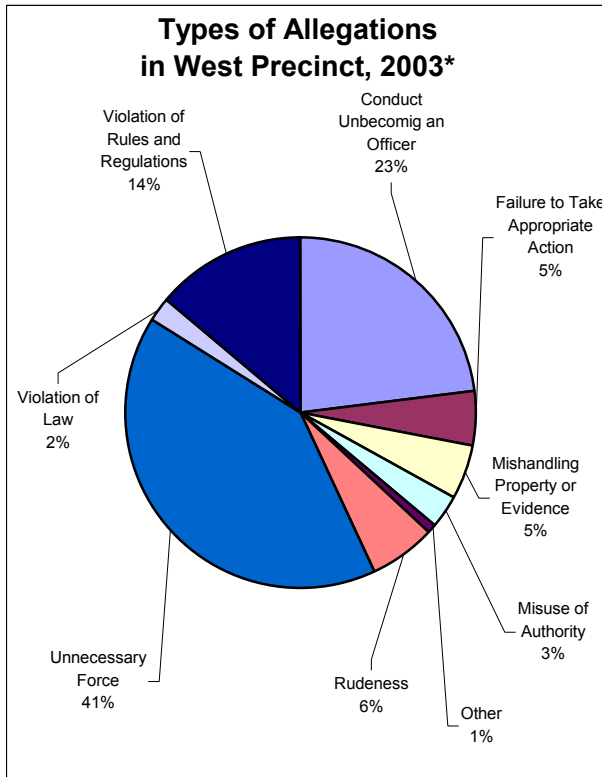
Type of Allegation	1997	1998	1999	2000	2001	2002	2003
Unnecessary Force	79	64	61	94	108	80	167
Conduct Unbecoming an Officer	39	35	50	65	85	105	76
Violation of Rules and Regulations	42	48	36	21	71	82	33
Misuse of Authority	39	39	21	20	19	20	9
Improper Language	45	34	8	5	6	5	0
Failure to Take Appropriate Action	23	29	20	12	12	14	16
Violation of Law	7	5	15	12	15	8	16
Mishandling Property or Evidence	14	16	11	16	23	14	16
Racial Profiling					2	1	0
Other	63	68	20	35	15	0 *	3
TOTAL	351	338	242	280	356	329	336

An OPA-IS investigation is conducted in response to a citizen or internal complaint alleging serious misconduct, or the possibility of criminal activity. The number of these for 2003 decreased slightly from 158 in 2002 to 149 in 2003.

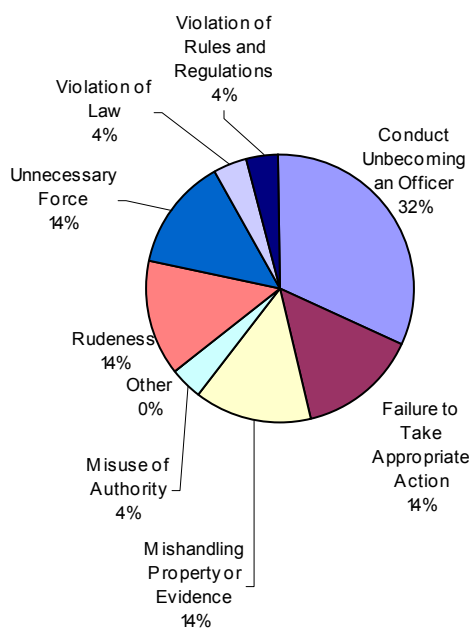
An analysis of the allegations illustrates the transition to emphasis within OPA-IS on the most serious cases, with significant decreases in more general allegations such as Conduct Unbecoming an Officer and Violation of Rules and Regulations (decreases of 38% and 60%, respectively).

At the same time, 2003 saw a troubling 105% increase in the number of allegations of unnecessary force. It is important to note that the number of *complaints* – or incidents – of unnecessary force did not rise as dramatically – just 18% over 2002. The difference between allegations and complaints is best explained by example: Two people are arrested and complain together about unnecessary force by four officers at the scene. They also complain that inappropriate comments were made by two officers while they were waiting at the scene for transport to the precinct. This single incident would result in six allegations. The more prominent increase in *allegations* appears to reflect an increase in the number of officers alleged to have used unnecessary or excessive force in *each incident*, and possibly in the number of complainants per incident as well.

The graphs that follow show the distribution of allegations within the Department's five precincts.



Type of Allegations in Southwest Precinct, 2003

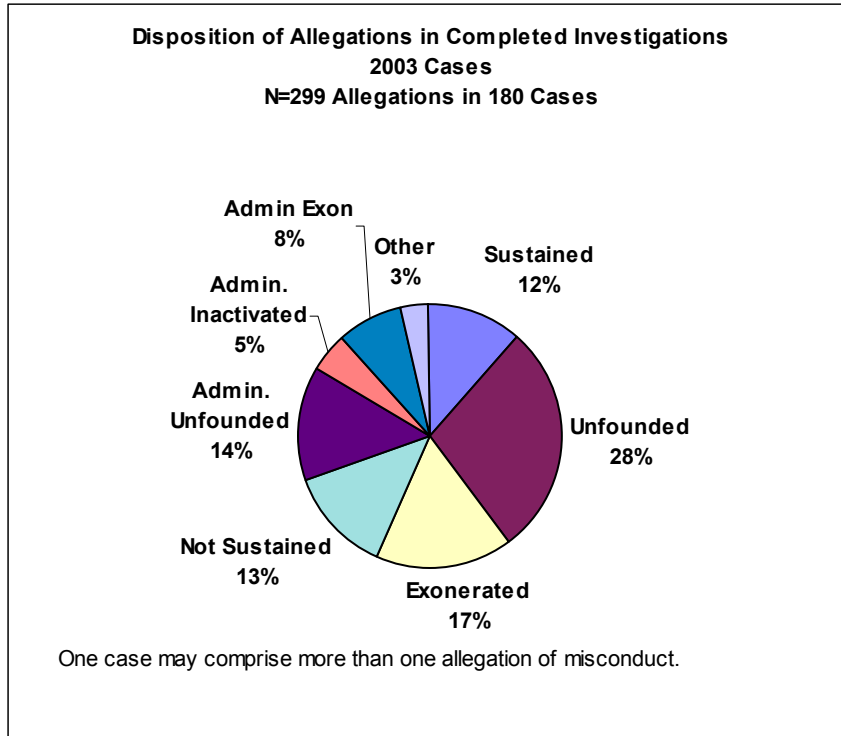


This rise in larger force incidents in 2003 and their distribution of complaints throughout the City warrants close examination. **These issues will be analyzed and reported in an upcoming report focusing on force complaints, including those involving use of a taser.**

However, it is important to note here that even the higher 2003 complaint numbers still make up a small proportion of reported force (99 complaints (cases) out of 784 reported uses of force incidents department-wide).

It must also be remembered that use of force by officers at SPD remains relatively infrequent. It is estimated that in 2003, SPD officers responded to 265,115 dispatched calls, made 169,113 on-view citizen stops or contacts, and arrested about 25,500 people. Force was reported or alleged just once for every 554 contacts, or about .18% of the time. This compares favorably with national data reflecting uses of force in just under 1% of police/citizen contacts.

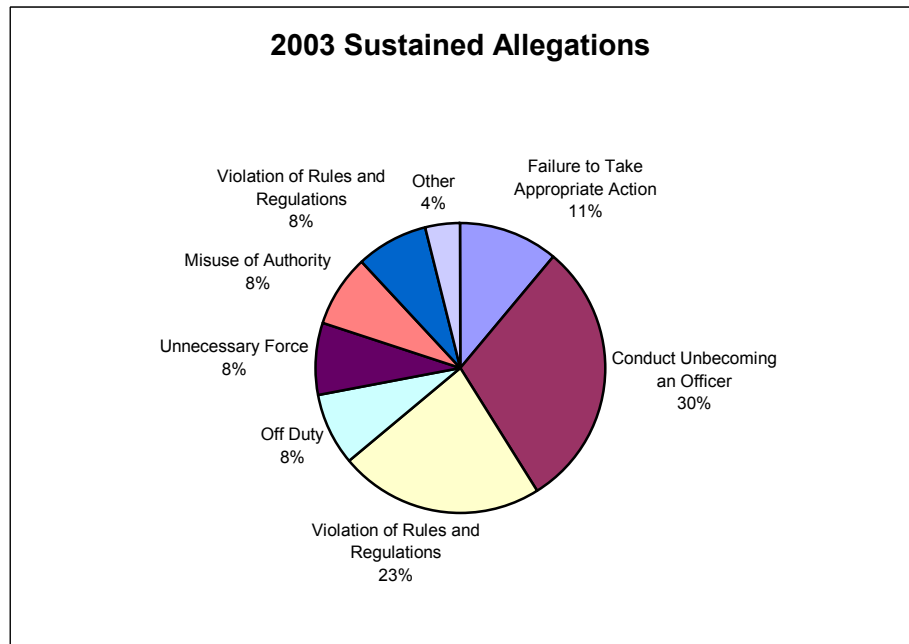
Disposition of Allegations



Represents 2003 cases closed through Dec 2004

The chart represents the year-end close out (Dec 2004) of findings for allegations received and investigated by OPA during CY 2003. Complaints may include multiple allegations; the statistics at left represent allegations and not complaints. The percentage of investigative cases with sustained findings remains the same – about 12%.

The 26 sustained allegations were made in the 22 - 2003 cases that included a sustained finding as all or part of the final resolution. The chart at right shows the distribution of sustained findings among allegation types.



The sustained rate has hovered between 11% and 14% since the OPA's inception. These rates closely match reported national averages for sustained rates in municipal departments, regardless of whether those agencies have a purely internal system or an external oversight agency.¹

Previous reports have included thorough discussion of the facts that contribute to the persistently "low" sustain rate, and the limited utility of the sustained rate as a measure of accountability.

While OPA maintains a vigilant and rigorous investigative arm, experience and research have persuaded us to diversify the approach to complaint reduction. OPA works in conjunction with other Department programs to enhance performance and accountability through effective policy, supervision, training, and performance evaluation. In addition OPA has instituted a mediation program aimed at resolving citizen complaints outside of the traditional investigation and discipline model. Recent experience in police-citizen mediation have found it a much more satisfying process for citizens and officers alike. Even more importantly, evidence suggests that mediation is more likely than discipline to improve officer conduct and reduce future complaints against officers who have gone through the process.

Finally, OPA has worked with Operations and Human Resources to develop a more progressive, comprehensive early intervention system that will help to identify potential problems, and support the officer, and correct any problems before they result in misconduct and discipline.

¹Professor Samuel Walker, University of Nebraska at Omaha, *Police Accountability: The Role of Police Oversight*, Wadsworth Professionalism in Policing Series, p. 121, note 5.

Officers with Multiple Complaints

Number of Officers with Single and Multiple Complaints *

Officer Complaint Category	Number of Officers in 2000	Number of Officers in 2001	Number of Officers in 2002	Number of Officers in 2003
Officers with one complaint	130	188	146	101
Officers with two complaints	24	39	27	22
Officers with three or more complaints	7	16	9	8
Total complaints	161	243	182	131

Seattle Police Department, 2000-2003 *Complaints may name more than one officer (LI/IIS cases only)

Consistent with analysis of the overall complaint activity and type of allegation, the 2003 data continues to reflect a desirable decrease in the number of officers with both single and multiple complaints against them that we reported from 2002 data. In 2003:

- 89% of officers had no complaints
- 8% had 1 complaint
- 2% had 2 complaints
- 1% had 3 or more complaints

The OPA has worked closely with the Department to strengthen programs aimed at reducing multiple complaints² and it is a healthy sign that 2003 data reflects a decrease.

In addition, as described above, SPD is implementing a more advanced early intervention system aimed at preventing complaints before they arise or reoccur.

²This work is described at pages 23 through 25 of the Fall 2003 Report.

Number of Officers with Single and Multiple Use of Force Complaints *

Officer Complaint Category	Number of Officers in 2000	Number of Officers in 2001	Number of Officers in 2002	Number of Officers in 2003
Officers with one use of force complaint	79	91	83	79
Officers with two use of force complaints	9	18	11	14
Officers with three or more use of force complaints	4	7	1	3
Total complaints	92	116	95	96

Seattle Police Department, 2000-2003 *Complaints may name more than one officer (LI/IIS cases only)

Of some concern, however, is that the decline did not hold true for officers with multiple complaints of unnecessary or excessive force. Seventeen officers received two or more use of force complaints in 2003. As part of its upcoming analysis of use of force complaints in 2003 and 2004, OPA will report on the results of analysis conducted on these officers and the complaints they received.

Discipline

Twenty-five employees were disciplined between September 2003 (last reporting period) and December 2004 for cases closed from earlier investigations. The following table provides information on the type of discipline imposed.

SMC 3.28.810(G) charges the OPA with providing analysis to the Chief of Police regarding disciplinary action in order to promote consistency of discipline. The OPA continues to work with the Department's Human Resources Department to improve records kept of past discipline to aid in the consideration of appropriate discipline. Currently, Human Resources maintains a database of all discipline imposed on sworn employees and for what allegation.

SPD Sworn Employees Disciplined 9/03 through 12/04

Type of Disciplinary Action	Number of Times Discipline Imposed
Termination	3
Demotion	0
Suspension	10
Written Reprimand	11
Oral Reprimand	0
Transfer	2
TOTAL	26

N = 25 employees (21 Sworn, 4 Civilians)

*Number of employees and complaints differ due to multiple instances of discipline

- 5 cases included in these totals are under appeal
- An additional employee retired from the Department before discipline could be imposed.

While authorized to make recommendations about a reasonable range of discipline for a given violation, the OPA's primary concern is that serious violations are treated as such, and that appropriate remedial action is taken in the majority of cases that involved minor misconduct. These are broad principles that advance accountability.

OPA reviewed a good number of 2003 cases where a policy violation may have occurred, or where best practices or tactics were not employed, but where the employee acted in good faith and was candid about his or her actions. This led OPA to develop a new finding category called Supervisory Intervention. This finding may be used when there has been no willful violation and discipline is not necessary or appropriate, but where there are deficient policies or inadequate training that need to be addressed. The percentage of cases that received a finding of Supervisory Intervention from 2004 to date are reported in the monthly reports.

OPA Classification and Disposition Activity

In the Fall 2003 Report, the OPA discussed its role in the review and disposition of complaints.

As that issue has been the subject of recent discussion, certain sections of that Report are reproduced here in full, but with updated 2003 data.

Providing a Fresh Perspective

A primary reason for the creation of the OPA Director position was to ensure that a person who was not a trained, sworn police officer would be included in the review of investigations of citizen complaints of police misconduct. The legislation called for a civilian with substantial legal and/or investigative experience – who could look at situations and evidence with a different set of eyes. And, for the first time, the review was to be in real time, not after the fact, so that it could make a difference in the outcome of actual cases. But the responsibility to review complaints and recommend findings and discipline wisely does not rest with the OPA Director alone. Instead, other commanders in the Department share the responsibility. The process used by the Department to evaluate cases is as follows.

Department Process for Evaluation of Cases

The process outlined at right ensures the rigorous and multi-dimensional review critical to both fairness and accountability. The classification and disposition activity of the OPA, noted in more detail below, is evidence that the OPA within the Department is not a system of perfunctory review and rubberstamping. Rather, the data reflects the energetic review, debate, and tough decision-making that are intentional features of the process. That there is frequent disagreement between the OPA Director and the sworn chain of command is not a discredit to the Department, nor evidence of a wide disconnect.

On the contrary, the data is testament to a system that is working as it was intended. Moreover, public reports such as these ensure in turn that the process itself is subject to scrutiny.

Few other police departments in the country have accepted such direct involvement of a civilian in their internal investigation function, and both the City and Department deserve recognition for their innovation and cooperative attitude.

When OPA-IS investigators have completed the fact-finding portion of the investigation, the complete investigative file is provided to the OPA-IS lieutenant. The lieutenant reviews the case for thoroughness and objectivity, and may either return it to the investigator for additional investigation, or forward it to the OPA-IS captain. When the investigation is deemed complete, an unredacted summary of the file is sent to the OPA Auditor. The Auditor may request additional investigation.

The OPA-IS captain reviews the entire case and analyzes the evidence. The captain prepares a memorandum stating

his or her recommendation for finding, along with supporting evidence and analysis. The OPA-IS Recommended Disposition is forwarded to the named employee's chain of command and

the OPA Director. If the OPA-IS captain recommended a "sustained" finding, a copy of the complete file is also sent to the Department's Human Resources Legal Advisor and to the Chief of Police. If there is disagreement between the reviewing parties as to the proper finding, the parties will meet and discuss the issue. The OPA Director makes the final determination of findings other than sustained. If either the chain of command or the OPA Director continues to recommend a sustained finding, a meeting to discuss the case is scheduled. Present at the meeting are the Chief of Police, the bureau chief and captain of the named employee, the OPA Director, OPA-IS Captain, and the legal advisor. The attendees each present their view of the evidence and the appropriate finding. The bureau chief and captain will also share the opinion of the named employee's supervisor about the case. If a sustained finding is still contemplated, the next step is for each attendee to share their opinion about the range of appropriate discipline. The SMC 3.28.810 charges the OPA with providing analysis to the Chief of Police to promote consistency in discipline. One of the key considerations in determining appropriate and consistent discipline is the level of discipline imposed in the past for similar offenses. The Department's Human Resources Department maintains records of past discipline to permit comparison and application to current cases.

As set forth in the OPA ordinance, SMC 3.28.700 et seq., the Chief of Police retains authority to impose the final finding and discipline. Chief Kerlikowske sometimes announces his proposed finding and discipline at the conclusion of the meeting; at other times he will take additional time to review and consider his decision. In all cases where the Chief proposes discipline, the employee and his or her union representative is notified in writing of the finding and the proposed discipline.

Federal and state law requires that public employees be given notice and an opportunity to be heard by the hiring authority before discipline may be imposed. To comply with this requirement, a meeting is arranged between the Chief, the named employee, and the employee's representative prior to the imposition of discipline. This meeting is known as a Loudermill hearing, from the name of the United States Supreme Court decision establishing this due process protection. At the meeting, the employee and his or her representative may present their position as to why the finding and/or discipline ought to be changed. Following the Loudermill hearing, the Chief issues the final determination of finding and discipline.

OPA 2003 Disposition Activity

Additional Investigation

The OPA director requested additional information and/or investigation in 30 cases. Eighteen of these cases (60%) involved use of force allegations. The thirty cases included 27 OPA-IS cases, two Supervisory Referrals, and one Line Investigation.

Changes to Line Recommendations

The Director changed the Line proposed finding on 20 allegations.

Changes to OPA Sustained Recommendations

The Chief of Police changed the OPA proposed finding in 11 individual allegations. In some cases, employees may still have received discipline, but for different or fewer allegations than recommended by the OPA. For example, in five cases the Chief sustained at least one allegation brought forward by OPA. In four cases, the Chief did not sustain the single allegation brought forward by OPA. In one case, the Chief of Police did not sustain two allegations recommended by OPA.

Allegation	Chief's Finding	Background
Allegation of unnecessary force.	Chief changed recommended sustained finding to exonerated.	Force used during an anti-war protest.
Allegation of conduct unbecoming an officer.	Chief changed the sustained recommendations to a referral for training.	Allegations of rudeness and retaliatory citation while employee was directing traffic.
Allegation of unnecessary force.	Chief changed the recommended finding of sustained to not sustained.	Incident arose following a traffic stop.

Allegation	Chief's Finding	Background
Allegation of conduct unbecoming an officer and unnecessary force.	Chief changed the sustained recommendation on the unnecessary force allegation to exonerated.	Confrontation with driver while employee was directing traffic.
Allegation of conduct unbecoming an officer, profanity and unnecessary force.	Chief changed the sustained recommendation on the allegation of unnecessary force to not sustained after a Loudermill hearing.	Incident arose when individuals were contacted following a report of a disturbance with a handgun.
Allegation of conduct unbecoming an officer, failure to I.D. self, and failure to take appropriate action.	The OPA Director recommended sustained findings on all three of these allegations. The Chief sustained the conduct unbecoming an officer allegation but changed the findings in the other two allegations to not sustained after a Loudermill hearing.	Confrontation during response to scene of a traffic collision.
Allegation of violation of rules.	Chief changed the sustained recommendation to unfounded after a Loudermill hearing.	Use of patrol vehicle for the purpose of working an off-duty job.
Allegation of profanity and unnecessary force.	Chief changed the finding in the force allegation to not sustained from sustained.	Allegations of force and profanity when named employee ordered complainant to leave an arrest scene.

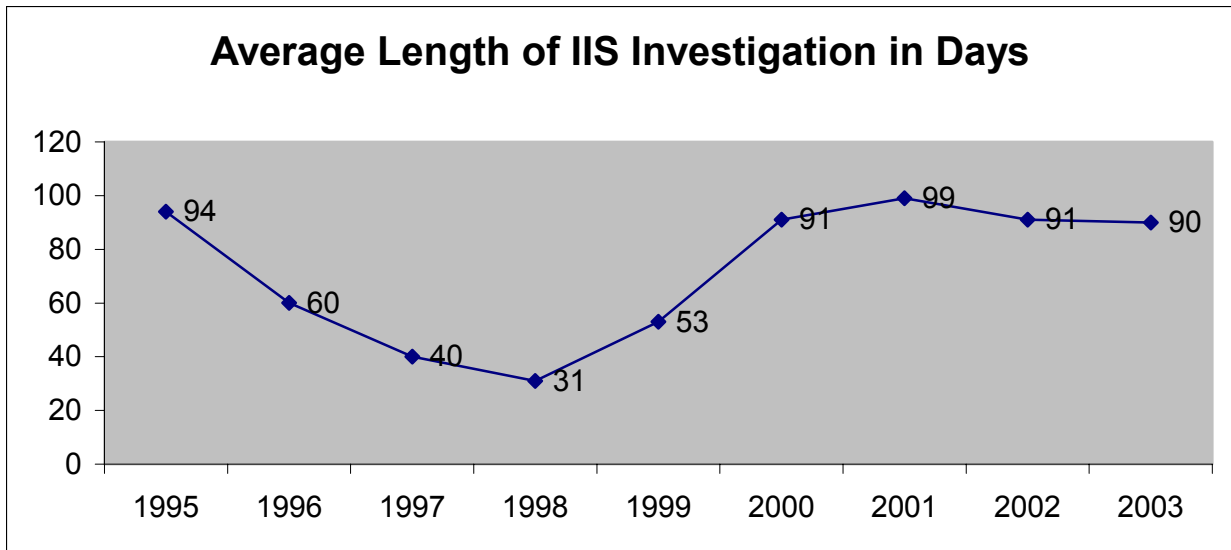
Allegation	Chief's Finding	Background
Allegation of failure to take appropriate action and conduct unbecoming an officer.	The OPA Director recommended a sustained finding on both allegations. The Chief changed both findings to not sustained after a Loudermill hearing.	Confrontation with a driver while employee was directing traffic.
Allegation of conduct unbecoming an officer and failure to take appropriate action.	The OPA Director recommended a sustained finding for both allegations. The Chief accepted the recommendation on the allegation of failure to take appropriate action but not-sustained the allegation of conduct unbecoming an officer	Employee damaged a parked car; offered to compensate the owner for damages if collision not reported.

Other Changes

In one case, the Chief sustained a force allegation that OPA-IS had recommended be exonerated:

Allegation	Chief's Finding	Background
Allegation of unnecessary force.	Chief changed the recommended finding of exonerated to sustained.	Minor force used against a handcuffed shoplifting suspect to prevent suspect from spitting.

Length of Investigations



In 2002, the OPA reported a decrease of 8% in the average length of time it took for an OPA-IS Investigation, from 99 days in 2001 to 91 days in 2002. For 2003, this positive trend continued, with a slight decrease of an additional day, down to 90 days.

However, the benefits of this reduction in investigative time are largely offset by the time spent in subsequent review, disposition, and closure of each case. Improvements are necessary in this category. The Director and Commander will work with other parts of the Department, such as Operations and Human Resources, and with SPOG to identify ways to streamline the review and closure process.

Preliminary Investigations

In July of 2003, the OPA changed the manner in which it defined Contact Logs and created a new category called Preliminary Investigations Report³.

- **Preliminary Investigation Report (1 July-31 December 2003)**

A PIR is the record of a complaint that, after an initial investigation and review, is determined not to allege a violation of the Department's Standards of Conduct. PIRs may include citizen inquiries or complaints about the enforcement of the law, Department policy, procedures, or tactics, or concerns about service quality, including promptness of response and demeanor. OPA-IS gathers and reviews relevant documentation, explains the results of their review to the complainant, and forwards the complainants concerns to the affected bureau. OPA-IS will highlight issues in certain PIRs that would be appropriate for chain of command follow-up.

Categorization of PIRs

In 2003, PIRS were categorized into 19 different subject matter headings. A summary of that information is below.

#	Description	Count	Percent
1	Service Quality	118	22%
2	Possible Mental Issues	57	11%
3	Disputes Report/Citation	48	9%
4	Biased Policing: Traffic	18	3%
5	Biased Policing: Other	28	5%
6	Attitude/Demeanor	58	11%
7	Inquiry/Request/Referral	89	16%
8	Discretion in Enforcement	62	11%
9	Off-Duty Traffic Control	0	0%
10	Demonstrations	33	6%
11	Special Events	1	< 1%
12	Sporting Events - SAFECO	2	< 1%
13	Sporting Events - Seahawks	0	0%
14	Sporting Events - Key Arena	0	0%
15	Workplace Issues	2	< 1%
16	Private Conduct	3	< 1%
17	Traffic Violation by Officer	5	1%
18	Search and Seizure	0	0%
99	Other	16	3%

The new PIR category clarified the criteria used in classification, acknowledged the scrutiny applied to all complaints and more accurately captured citizen complaint activity.

³The prior term, "contact log" is still in use to describe documentation of a contact that is not a complaint, or is a complaint that does not involve an SPD employee. This classification would include inquiries for explanation of policies, referrals, requests for information, customer service requests and/or other issues that require no investigative effort and/or additional action. These queries would not reach the threshold for other classifications listed above.

In 2003, 572 Preliminary Investigation Reports/Contact Logs were opened by the OPA. The following chart reflects the classification of the PIRs for 2003.*

*PIRs may include both primary and secondary issues. The above chart includes 415 PIRs, which included 540 issues (157 Contact Logs were opened During July-Dec 2003).

The work done by OPA-IS in these preliminary investigations is exemplary. The intake sergeants deal directly with citizens with a wide array of questions and concerns. Often OPA-IS is able to provide direct services and advice to citizens who may have made several calls already in an effort to get through to someone who can help. The sergeants listen, explain, and often reassure citizens, something officers in the field are not always able to do. They put a human face on the bureaucracy of a large police department, and represent both the Department and the citizenry well.